

# SERVICE OF PAPERS AFTER INITIAL SUMMONS AND PETITION (“PROCESS”) HAVE BEEN PROPERLY SERVED

King County Family Law Facilitators: Instruction # S-2  
Superior Court Civil Rule 5, King County Local Rule 5

Once valid service of “**process**” (the documents with which legal actions are commenced; usually the **Summons**, or **Summons and Petition**, in a family law action) has been made on the opposing party, most (**but not all**) papers in your court action may be served on the opposing party (or their attorney if they are represented by counsel) by either you, personally, or another person, by one of the methods described in these instructions. The papers may also be served by the more “formal” method explained in Facilitator Instruction # S-1, “Information on Service of Process.”

**Even after initial service of process, certain papers must still be served by the more formal method required for service of process;** for example, service of an Order to Show Cause in a contempt proceeding must be done in the same manner as service of a Summons. If you have any doubt as to the method of service required, you should consult with an attorney, or carefully review the applicable court rules and statutes. Civil Rule 5 (CR5) is the primary Washington State court rule governing service of pleadings and papers when valid service of process has previously been completed, and King County LR 5 is the primary local rule pertaining to such service. Copies of both the Washington State Court Rules and local rules for all Washington counties are available in the King County Law.

**WARNING: If there is a Restraining Order in effect, and the opposing party is not represented by an attorney**, your right to serve the papers yourself is probably restricted/restrained by that Order, even if the Order does not specifically address the issue of service of papers on the opposing party. In such a situation, if the opposing party is not represented by an attorney, have someone besides yourself serve the opposing party, whether by personal delivery or mail, and only have those papers served which are **required** to be served by statute, court order, or rule. If there is a restraining order in effect, and service of the papers is not required by statute, court order, or rule, you should consult with an attorney to determine whether there is a need to serve copies on the other party, or whether you should just bring the opposing party’s copies with you to Court at the time of the hearing. If the opposing party is represented by an attorney, follow the instructions below for service on the attorney. **If you have any question regarding whether service of papers on the opposing party would violate a restraining order, or other questions regarding how service should be accomplished in your particular case, you should consult with an attorney before having papers served!**

If there is no restraining order in effect, you may serve the papers yourself by the means described in these instructions, or have someone else who is at least 18 years old, do the service.

Form Required:

- **Declaration of Mailing or Delivery** (no standard form - copy of sample form is attached), or other declaration made under penalty of perjury, providing the required information.

<b>SERVICE IF OPPOSING PARTY DOES <u>NOT</u> HAVE AN ATTORNEY</b>
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**Remember: These instructions only apply to papers being served after original process has been properly served**

If the opposing party does not have an attorney, the opposing party may be served with a copy of the papers by either regular first-class mail, with postage fully pre-paid, addressed to the opposing party's last known address, or by delivery to the opposing party. "Delivery" to the opposing party for this purpose means handing it to the party; or leaving it at his or her office with his or her clerk or other person in charge of the office; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the opposing party does not have an office, by leaving the papers at his or her usual residence with a person of "suitable age and discretion" (someone who is old enough and mentally able to understand that they are receiving legal papers, and who will be likely to give them to the opposing party; usually must be at least a teenager) who also resides there.

**If service of the papers is by mail, you must add three 3 days to whatever time period is required for notice.**

Once service has been completed, the "Declaration of Mailing or Delivery" form (or another declaration made under penalty of perjury providing the same information) needs to be completed and signed by the Server, and a copy made. Then the original must be filed with the Court Clerk, and the copy should be retained for your records. Instructions on completing the form are set forth below in the COMPLETING THE DECLARATION OF MAILING OR DELIVERY section.

<b>SERVICE IF OPPOSING PARTY <u>DOES</u> HAVE AN ATTORNEY</b>
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**Remember: These instructions only apply to papers being served after original process has been properly served**

If the opposing party is represented by an attorney, the opposing party's attorney must be served, rather than the opposing party, unless service on the opposing party

him/herself is ordered by the Court or otherwise required by statute or court rule. The opposing party's attorney may be served with a copy of the papers by either regular first-class mail, with postage fully pre-paid, addressed to the attorney's last known address, or by delivery to the attorney. "Delivery" to the opposing party's attorney for this purpose means handing it to the attorney or leaving it at his or her office with his or her clerk or other person in charge of the office; or, if there is no one in charge, leaving it in a conspicuous place in the office.

**If service of the papers is by mail, you must add three 3 days to whatever time period is required for notice.**

Once service has been completed, the "Declaration of Mailing or Delivery" form (or another declaration made under penalty of perjury providing the same information) needs to be completed, signed by the Server, and a copy made. Then the original must be filed with the Court Clerk, and the copy should be retained for your records. Instructions on completing the form are set forth below in the COMPLETING THE DECLARATION OF MAILING OR DELIVERY section.

**After a final judgment is entered in a case, service on the opposing party's attorney, rather than on the opposing party him/herself, may be restricted. If a final judgment has been entered in your case, please review Civil Rule 5 (CR5) and/or consult with an attorney to determine the proper means for service.**

<b>COMPLETING THE DECLARATION OF MAILING OR DELIVERY</b>
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**Remember: These instructions only apply to papers being served after original process has been properly served**

In order to prove to the Court that the opposing party has been served with the papers, a form verifying the service must be accurately and fully completed, signed under penalty of perjury by the Server, and filed with the Court. The Declaration of Mailing or Delivery form should be completed as follows:

You should fill in the case caption (names of the petitioner and respondent, upper left of form) and case number (next to "NO.", upper right of form). The Server (whether you or another person) should fill in the blanks and mark the appropriate choices where indicated in the form, for each of the following:

- Fill in the date and time of mailing or delivery.
- Indicate whether service was by mail or delivery.
- Fill in the name of the person the papers were mailed or delivered to.

- Fill in the status of the person to whom the papers were mailed or delivered (Respondent, Petitioner, Attorney for Respondent or Petitioner, person of suitable age and discretion residing at Petitioner's or Respondent's usual residence, clerk or other person in charge of the office, etc.).
- Indicate the titles of **all** papers which were served.
- Fill in the address the papers were mailed or delivered to.
- Indicate whether the address is the other party's usual residence, their office, or the office of the other party's attorney.
- Fill in the City and State where signed, and the date signed.
- Server must sign, and the Server's name must be printed.

**WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. (You may be able to hire a lawyer for a small fee to review your completed forms and talk about your problem but not represent you in court). If you need a lawyer, contact the Family Law Facilitators' Office for their *Legal Resource List* or call the King County Bar Association.**